REMARKS

Claims 1-52 and 54 remain in this application. Claim 53 is cancelled. Applicants respectfully request reconsideration and review of the application in light of the foregoing amendments and following remarks. Applicants have also submitted a notice of appeal concurrently with this paper.

The Examiner rejected Claim 53 under 35 U.S.C. § 112, second paragraph, as indefinite for reciting a trademark. In the interest of reducing issues for appeal, Applicants have cancelled the claim. This ground of rejection should therefore be withdrawn.

The Examiner rejected Claims 1-54 under 35 U.S.C. § 102(b) as anticipated by Young et al. This is essentially the same ground of rejection as stated in the previous Office Action. Applicants again respectfully traverse this rejection.

As discussed previously, Young et al. discloses a model train control system that operates in accordance with the TRAINMASTER protocol described above. Young et al. does not suggest or disclose a controller that can be configured to operate a model train using plural control protocols. In response, the Examiner presents the following counter-argument:

> Applicant argues that the prior art does not disclose a model train controller being capable of communicating in multiple command protocols. The prior art clearly states that it can operate multiple trains in the same system and can be programmed to run trains as well as accessories. This is interpreted and [sic] operating a plurality of protocols. Applicant also recites in the claims that the model trains only need be compliant with at least one of plural command protocols. Therefore, as long as the prior art complies to one protocol or only uses one protocol, the prior art will read on the instant claim in that multiple protocols are not necessary.

Respectfully, the Examiner's counter-argument is totally wrong insofar as it misconstrues the invention and ignores clear limitations of the claims.

As a fundamental matter, the ability to operate multiple trains on a system is very different than operating trains in accordance with different command protocols.

Applicant acknowledges that it is known to operate multiple trains in the same system using the same command protocol. For example, the Lionel TRAINMASTER™ control system enables an operator to control multiple model trains on the same layout as long as they are each configured to communicate in accordance with that command protocol. But, a model train that is configured for another command protocol, such as the conventional control protocol, cannot understand the TRAINMASTER™ control signals and hence cannot be controlled on the same layout by the same controller.

The present invention solves this problem by providing a control system that can communicate in plural command protocols. Using the invention, for example, an operator can control at the same time one model train that is configured for the TRAINMASTER™ control system and a second model train that is configured for conventional control protocol. This is not suggested or disclosed by the prior art. The invention enables this novel feature by providing a switch permitting selection between the plural command protocols and a controller that generates train command messages that are formatted in accordance with the selected one of the protocols. Young et al. discloses neither a "switch permitting selection of one of said plural command protocols" or a "controller ... operative to generate train command messages ... formatted in accordance with a selected one of said plural command protocols" as plainly defined in certain independent claims, i.e., Claims 1 and 16.

The Examiner suggests that the ability to operate trains and accessories teaches control using multiple protocols. Respectfully, this suggestion is clearly erroneous. First, in accordance with the prior art, model trains and accessories are not controlled under different protocols, but rather both operate under the same protocol. More specifically, the command messages to control operation of the model trains and accessories use the same message format. For example, using the TRAINMASTER™ control system, the operator can control both the speed of the model train and can control the lights in a station house on the same layout, as long as both the model train and station house lights are configured in accordance with the same control protocol. If,

however, one of them were not configured to operate in accordance with that protocol, then it could not be controlled using the same control system. Even if commands to accessories were somehow construed as being a different "protocol" than commands to model trains, the claims specifically recite generation of "train command messages" that are "formatted in accordance with a selected one of said plural command protocols." This limitation would not be met under the Examiner's interpretation of accessory command messages, because accessory command message would not have a different format than train command messages. Regardless, the claims plainly recite that the present control system is directed to controlling an "operating feature of said train," which would distinguish over control of accessories.

The Examiner further asserts that teaching or use of a single protocol anticipates the claims because the claims recite that the model trains only need be compliant with one protocol. Respectfully, the Examiner is ignoring plain limitations of the claims. For example, Claim 1 is directed to an apparatus for controlling a model train. The claim is not directed to the model train itself. Hence, the model train is not an affirmative limitation of the claim, but constitutes the environment in which the control apparatus is used. Claim 1 plainly recites a control apparatus having, *inter alia*:

> a switch permitting selection of one of said plural command protocols;
>
> a plurality of selection devices each corresponding to a respective operating feature of said train;
>
> a controller connected to said selection devices and said switch, said controller being operative to generate train command messages corresponding to said selection devices and formatted in accordance with a selected one of said plural command protocols; and
>
> a transmitter connected to said controller operative to send said train command messages to a receiver located on said train.

A model train would not have **any** of these limitations. Particularly, the limitations of the "switch" and "controller" would not be met by a model train operable under a single protocol. The Examiner's assertion effectively reads these limitations out of the claims.

Hence, rejection of the claims on this basis is clearly improper.

In addition to the foregoing arguments, Claims 38-43 are directed to a separate embodiment of the invention that does not include the limitations relating to plural command protocols discussed above. Specifically, Claim 38 is directed to an apparatus for controlling a model train comprising:

> a transformer operatively coupled to the track and applying a voltage thereto, the transformer being manually variable to selectively alter a level of the applied voltage; and
>
> a controller operatively connected to the track, the controller including a voltage sensor operative to measure the level of the applied voltage, the controller being operative to generate a train command message corresponding to the measured voltage level, the controller further including a transmitter operative to send the train command messages to a receiver located on the train.

Young et al. fails to suggest or disclose these limitations, and the Examiner has made no showing whatsoever that these limitations are met by the reference. In fact, the Examiner's remarks do not appear to address these claims at all. For at least this reason, the final rejection of the application is improper and should be withdrawn.

As a final comment, the Examiner makes several assertions of the general scope and teaching of the prior art without citing any prior art references to support these assertions. Pursuant to 37 C.F.R. § 1.104(d)(2), Applicants request that the Examiner provide evidentiary support for any such assertions that are based on the Examiner's personal knowledge, so that Applicants can reasonably evaluate and contradict such assertions.

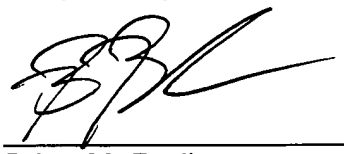
Accordingly, for each of the foregoing reasons, Applicants respectfully submit that the Examiner has failed to show that the claims are anticipated by the prior art of record. This ground of rejection should therefore be withdrawn.

In view of the foregoing, Applicants respectfully submit that Claims 1-52 and 54 are in condition for allowance. Reconsideration and withdrawal of the rejections is respectfully requested, and a timely Notice of Allowability is solicited. In the event that

the Examiner refuses to withdraw or amend the grounds of rejection based on prior art, Applicants request issuance of an Advisory Action indicating withdrawal of the foregoing rejection based on 35 U.S.C. § 112, second paragraph, so as to reduce the issues for appeal. If it would be helpful to placing this application in condition for allowance, Applicants encourage the Examiner to contact the undersigned counsel and conduct a telephonic interview.

To the extent necessary, Applicants petition the Commissioner for a two-month extension of time, extending to July 3, 2006, the period for response to the Office Action dated February 1, 2006. The Commissioner is authorized to charge any fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-0639.

Respectfully submitted,



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